

Case No. 20030081

DECLARATION FOR PATENT APPLICATION (37 CFR 1.63) AND POWER OF ATTORNEY

DECLARATION: As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name. I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Process For Preparing High Purity TNT

a specification of which [] is attached hereto or [X] was filed on 21-Apr-2004 as United States Application Number or PCT International Application Number US2004/012425. I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations §1.56. I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT International application having a filing date before that of the application on which priority is claimed.

Priority ClaimedPrior Foreign Application(s)

| (Number) | (Country) | (Date filed) | Yes | No |
|----------|-----------|--------------|-----|----|
|----------|-----------|--------------|-----|----|

I hereby claim the benefit under 35 U.S.C. §119(e) of United States application(s) listed below.

Provisional Application Number(s):

60/464,286

Filing Date(s):

4/21/03

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Application Ser. No.Filing DateStatus-Patented, Pending or Abandoned

POWER OF ATTORNEY: I hereby appoint as my attorney, with full powers of substitution and revocation, to prosecute this application and transact all business in the U.S. Patent and Trademark Office connected therewith:

USPTO CUSTOMER NO. 22500**Daniel J. Long, Reg. No. 29,404**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

All Inventor's are listed below:

Solo or first Inventor's Name (first, middle if any, last) Keith S. Kyler
Additional Inventor's Name (first, middle if any, last) Andrew R. Wilson
Additional Inventor's Name (first, middle if any, last) Curtis Teague
Additional Inventor's Name (first, middle if any, last) _____

Case No. 20030081

ALL INVENTORS

I have read the first page of this declaration for patent application, and I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Solo or first Inventor's Name (first, middle if any, last) Keith S. Kyler
Residence Address: 1401 University Blvd, Apt. D-3, Kingsport, TN 37660
Country US Citizenship US
Post Office Address: Same as residence
Signature: _____ Date: _____

Additional Inventor's Name (first, middle if any, last) Andrew R. Wilson
Residence Address: 1237 Sussex Drive, Kingsport, TN 37660
Country US Citizenship US
Post Office Address: Same as residence
Signature: Andrew R. Wilson Date: 7-Feb-2008

Additional Inventor's Name (first, middle if any, last) Curtis Teague
Residence Address: 1045 Allendale Circle, Kingsport, TN 37660
Country US Citizenship US
Post Office Address: Same as residence
Signature: _____ Date: _____

Additional Inventor's Name (first, middle if any, last) _____
Residence Address: _____
Country _____ Citizenship _____
Post Office Address: _____
Signature: _____ Date: _____

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Prior Foreign Application(s)Priority Claimed

| (Number) | (Country) | (Date filed) | Yes | No |
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All Inventor's are listed below:

Solo or first Inventor's Name (first, middle if any, last) Keith S. KyleAdditional Inventor's Name (first, middle if any, last) Andrew R. WilsonAdditional Inventor's Name (first, middle if any, last) Curtis Tenge

Additional Inventor's Name (first, middle if any, last) _____

Case No. 20030081

ALL INVENTORS

I have read the first page of this declaration for patent application, and I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Solo or first Inventor's Name (first, middle if any, last) Keith S. Kyler
Residence Address: 1401 University Blvd. Apt. D-3, Kingsport, TN 37660
Country US Citizenship US
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Additional Inventor's Name (first, middle if any, last) Andrew R. Wilson
Residence Address: 1237 Sussex Drive, Kingsport, TN 37660
Country US Citizenship US
Post Office Address: Same as residence
Signature: _____ Date: _____

Additional Inventor's Name (first, middle if any, last) Curtis Tenge
Residence Address: 1045 Allendale Circle, Kingsport, TN 37660
Country US Citizenship US
Post Office Address: Same as residence
Signature: [Signature] Date: 2-7-08

Additional Inventor's Name (first, middle if any, last) _____
Residence Address: _____
Country _____ Citizenship _____
Post Office Address: _____
Signature: _____ Date: _____



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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RECEIVED

In re Application of
KYLER *et al*
U.S. Application No.: 10/553,825
PCT No.: PCT/US04/12425
Int. Filing Date: 21 April 2004
Priority Date: 21 April 2003
Attorney Docket No.: 20030081
For: PROCESS FOR PREPARING HIGH
PURITY TNT

JAN 22 2008

PATENT DEPARTMENT

DECISION

This decision is in response to applicants' petition under 37 CFR 1.181 filed 04 December 2007. No fee is required.

BACKGROUND

On 16 February 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 19 April 2007, applicant purportedly filed a response which contained, *inter alia*, an executed declaration by the nonsigning inventor, Dr. Keith S. Kyler. These papers were not located in the file.

On 14 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the petition decision mailed 16 February 2007 within the time period set.

On 04 December 2007, applicants filed the subject petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 19 April 2007 and a stamped postcard receipt for the 19 April 2007 documents.

DISCUSSION

Petition to Withdraw Holding of Abandonment

A review of the subject application shows that the response purportedly filed in the above-captioned application on 19 April 2007 was not located in the file.

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MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 19 April 2007. The postcard receipt records that among the papers received in the USPTO included "2 pages signed declaration and power of attorney." The postcard receipt is stamped "Rec'd PCT/PTO 10 APR 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt. Applicants provided a copy of these papers as required.

Accordingly, applicants have provided *prima facie* evidence that an executed two-page declaration was received by the USPTO on 19 April 2007.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is GRANTED.

The Form PCT/DO/EO/909 mailed 14 November 2007 is hereby VACATED.

Petition Under 37 CFR 1.47(a)

In the response originally filed 19 April 2007, applicants submitted a declaration executed by the nonsigning inventor, Mr. Kyler. This declaration is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

Since an executed declaration by the nonsigning inventor has been provided, the petition under 37 CFR 1.47(a) is DISMISSED as MOOT.

However, the prior declaration filed 08 January 2007 was deemed to be a partial declaration in the decision dated 16 February 2007. Applicants were requested to provide the complete declaration signed by Andrew R. Wilson and Curtis Teague. In the response originally filed 19 April 2007, applicants did not address this defect.

Applicants must provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within TWO MONTHS of the date of mailing of this decision.

Failure to submit the required reply will result in the ABANDONMENT of this

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application.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
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